

Assembly Bill No. 1473

CHAPTER 547

An act to add and repeal Section 44002.1 of the Public Resources Code, relating to solid waste.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1473, Feuer. Solid waste facility: temporary permits.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, prohibits a person from operating a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to the act. The enforcement agency is required to immediately issue a cease and desist order ordering a solid waste facility that is operating without a permit to immediately cease operations and to direct the owner or operator of the facility to obtain a permit.

This bill would require the board to adopt emergency regulations to authorize an enforcement agency, upon the board's concurrence, to issue a temporary solid waste facilities permit to a person operating a solid waste transfer or processing station or a composting facility, which, as of January 1, 2008, is required under the act to have a solid waste facilities permit but for which a permit has not been obtained. The bill would require the regulations to direct any person desiring to obtain a temporary solid waste facilities permit to submit an application to the enforcement agency no later than 60 days from the effective date of the regulations; to obtain a permanent solid waste facilities permit from the enforcement agency having jurisdiction, or cease activities for which a permit is required, as specified; a facility covered under a temporary solid waste facilities permit to have been in operation on or before January 1, 2007; and that the owner or operator of a covered facility agree to inspections, at least monthly by the enforcement agency.

The bill would require a local enforcement agency to diligently notify the operators of all facilities within its jurisdiction of the availability of temporary solid waste facilities permits, thereby imposing a state-mandated local program by imposing new duties upon local enforcement agencies. The bill would also require the board to expeditiously review and act on a proposed temporary solid waste facilities permit.

The bill would require the board to adopt the regulations as emergency regulations and would require the Office of Administrative Law to consider the regulations as necessary for the immediate preservation of the public peace, health and safety, or general welfare. The board would be required

to file the regulations with the Office of Administrative Law at the earliest feasible date or on March 1, 2008, whichever date is earlier. The bill would provide that the regulations would remain in effect until July 1, 2010, and on that date would become inoperative.

The bill would provide that its provisions would become inoperative on July 1, 2010, and, as of January 1, 2011, would be repealed.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 44002.1 is added to the Public Resources Code, to read:

44002.1. (a) The Legislature finds and declares all of the following:

(1) New trends in solid waste handling and collection practices, such as single-stream collection of recyclable materials, coupled with the regulations adopted by the board that govern solid waste transfer or processing stations and composting facilities, have resulted in the failure of a substantial number of persons carrying out previously unregulated recycling, solid waste handling, and composting activities, to comply with existing law.

(2) As cities and counties undertake greater efforts to increase the diversion of solid waste from landfills, the board anticipates that many new transfer and processing stations and composting facilities will commence operation in California within the next two to five years.

(3) To address these trends, it is necessary to provide a temporary permitting scheme to enable the operators of existing solid waste facilities to obtain temporary permits more quickly than is possible under existing law, in order to protect the public health and safety and the environment.

(b) The board shall adopt emergency regulations pursuant to subdivision (d) to authorize an enforcement agency, upon the board's concurrence, to issue a temporary solid waste facilities permit to a person operating a solid waste transfer or processing station or a composting facility, that, as of January 1, 2008, is required under this division and the regulations adopted by the board pursuant to this division to obtain a solid waste facilities permit, but for which a permit has not been obtained. The regulations adopted by the board shall include all of the following requirements:

(1) That a person desiring to obtain a temporary solid waste facilities permit submit a complete and correct application for the permit to the enforcement agency having jurisdiction no later than 60 days from the effective date of the regulations.

(2) That the date by which a holder of a temporary solid waste facilities permit shall obtain a permanent solid waste facilities permit from the

enforcement agency having jurisdiction, or cease the activities for which a solid waste facilities permit is required, be on or before June 30, 2010.

(3) That a facility covered under a temporary solid waste facilities permit have been in operation on or before January 1, 2007.

(4) That the owner or operator of a facility covered under a temporary solid waste facilities permit agree to allow the facility to be inspected, at least monthly, by the enforcement agency.

(c) (1) An enforcement agency shall diligently notify the operators of all facilities within its jurisdiction of the availability of temporary solid waste facilities permits under the regulations adopted pursuant to this section.

(2) The board shall expeditiously review and act on a proposed temporary solid waste facilities permit submitted to it by an enforcement agency. Upon the request of an enforcement agency, the board shall provide assistance to the enforcement agency to expeditiously process applications for temporary solid waste facilities permits.

(d) The regulations adopted by the board pursuant to this section shall be adopted as emergency regulations and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. The board shall file the emergency regulations with the Office of Administrative Law at the earliest feasible date or March 1, 2008, whichever date is earlier. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted by the board pursuant to this section shall remain in effect until July 1, 2010, and on that date shall become inoperative.

(e) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.